

Conflict of Interest

OGC REVIEW COMPLETED

Chief, Procurement Division/OL

Assistant General Counsel/OL

Employment

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REFERENCES: (a) Letter of 25 Sept. 1963 from President

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(b) Letter of 25 Sept. 1963 from President,

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(c) Memorandum of 3 Oct. 1963 from [REDACTED]
to Assistant General Counsel

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1. Reference (a) sets forth the following:

[REDACTED] is joining our organization on a part time basis beginning October 1, 1963. His title will be Administrative Assistant, and he will be aiding [REDACTED] our Business Manager, in various areas of general administration. In view of [REDACTED] a prior experience with administrative matters in your organization, we believe that he could be very helpful in providing administrative liaison with respect to tasks which we perform for you.

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2. Reference (b) states:

[REDACTED] is joining our organization as a full time employee beginning 1 November 1963. His title will be Project Coordinator, and he will be assisting our Chief Engineer, [REDACTED] in the planning and coordinating of technical programs involving the installation of equipment in various aircraft.

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[REDACTED] is retiring from the U. S. Air Force some time in October 1963. He has had extensive experience, both with your organization and in the Air Force, relative to maintenance and modification of aircraft.

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3. Prior to his retirement from the Agency, [REDACTED]

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was head of the [redacted], an administrative position which was not concerned with procurement and which had no dealings with [redacted]
[redacted] is principally a warehousing activity.

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4. It is understood that [redacted] prior to his retirement, was doing technical work for the Agency which involved the installation of technical equipment in aircraft. He had no dealings of any kind with [redacted]

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5. Headquarters Notice [redacted] in dealing with the Conflict of Interest Statute, Public Law 87-349, which became effective 21 January 1963, sets forth the following with respect to former or retired Government employees:

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"5.c. He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

"5.d. He may not, for one year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service (18 U.S.C. 207(b)). This temporary restraint of course gives way to the permanent restraint described in subparagraph 5c above if the matter is one in which he participated personally and substantially."

6. The June 1963 issue of the Navy JAG Journal at page 56 presents a succinct discussion of P. L. 87-349 which it is believed worthwhile to quote at this point.

"Section 207 represents another significant enlargement upon the old law, in this case, an enlargement upon old section 204. Old section 204 prohibited a former employee of the Government from prosecuting a claim

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against the United States involving any subject matter with which he was directly connected while employed, for a two year period following the termination of his employment. The term 'claim against the United States' was construed to mean one involving property or money.

"Present section 207(a) imposes a permanent bar on any former Government employee, including a special Government employee, from acting as attorney or agent for anyone other than the United States, in any matter involving a specific party, in which the United States is a party, or has a direct and substantial interest and in which he participated personally and substantially in a governmental capacity. Thus, in addition to replacing the former two year disqualification with a lifetime bar, section 207(a) strengthens the former law by going beyond claims for money or property to the whole range of matters in which the Government has an interest.

"Section 207(b), on the other hand, allows such former Government employees to act as agents or attorneys for anyone other than the United States in matters in which the United States is a party or has a direct and substantial interest, one year after their employment by the Government has terminated, if the matter involved was merely under their 'official responsibility', as that term is defined in section 202(b), at anytime within a period of one year prior to the termination of such responsibility, and they did not participate personally and substantially in the matter in question. In other words, any former Government employee must observe a 'cooling off' period of one year after termination of his Government employment before acting as agent or attorney for anyone other than the United States in any matter which came under his 'official responsibility' during the last year of his Government employment.

"Section 207 (a) and (b) apply to retired officers or the armed forces."

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7. We do not believe that the functions of [redacted]

[redacted] as described in references (a) and (b), would come within the provisions of the Conflict of Interest statute since neither would be working on matters for [redacted] in which he participated personally and substantially in a governmental capacity or which was under his official responsibility.

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Enclosures:

Refs (a), (b) & (c)

Assistant General Counsel/W.

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cc/ODC [redacted]

(30 Oct 63)